

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1371 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

BARODA MUNICIPAL CORPORATION

Versus

VADODARA SHAHER SUDHARAI NAUKAR MANDAL

Appearance:

MR PRANAV G DESAI for Petitioner

None present for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/10/1999

ORAL JUDGEMENT

#. The petitioner, Baroda Municipal Corporation, Baroda, by this petition, challenges the award of the Industrial Tribunal, Baroda dated 18/10/1986 made in reference (Old No.11 of 84, New No.522/84), the operative part of which reads as under :

"The demand of the Establishment and Shops

Inspector are hereby granted. The Corporation can make payment in cash amount instead of giving dress and the Corporation has to provide Dress, Rain Coat etc., to these Inspectors as are given to other inspectors of the Corporation from April, 1980".

#. Shri P.G.Desai, learned counsel for the petitioner raised twofold contentions. Firstly, it is contended that the Shops and Establishment Inspectors do not constantly perform outdoor duties for 8 hours and their cases are not comparable with the cases of other inspectors i.e. Sanitary Inspector, Octroi Department Inspectors etc., who perform their duties outside. This distinction in the duties to be performed by this class of inspectors disentitle them of the benefits of the dresses, rain coat etc. Second contention is raised that these benefits could have been granted by the Industrial Tribunal, Baroda from the prospective effect but not from the retrospective effect i.e. from April, 19998.

#. I have given my thoughtful consideration to the contentions made by the learned counsel for the petitioner and I do not find substance in any of the contentions. From the award, I find that relying on the witness produced by the parties, the Industrial Tribunal has recorded the findings on the fact that the Shops and Establishment Inspectors are to perform their duties outside also. It is hardly of any substance where they perform duties for 8 hours or for less hours. When this class of persons are also performing their duties outside their claim for dress and rain coat etc. deserves acceptance and it has rightly been accepted by the Industrial Tribunal to which no exception can be taken more so sitting under Article 227 of the Constitution of India. These matters, which are to be decided on evidence of the parties and on appreciation of evidence the finding of fact, which has been recorded by the Industrial Tribunal cannot be termed as perverse or arbitrary. On being asked by the court, learned counsel for the petitioner is unable to show any document describing the duties of those 3 categories of Inspectors. Orally what he is contended is otherwise difficult to believe what to say to accept the same more so when the Industrial Tribunal has found as a fact that this class of the Inspectors of the Corporation are also discharging outside duties.

#. So far as the second contention is concerned, it is based only on date of the Notification i.e. 3/1/1984

under which the reference of the industrial dispute has been made to the Industrial Tribunal by the State Government. The learned counsel for the petitioner on being asked by the court has failed to show any document or any pleadings from the Special Civil Application on which date this dispute has been raised by the respondent. The relevant date is the date on which the industrial dispute has been raised by the respondent and not the date on which same was referred for adjudication by the State Government to Industrial Tribunal or Labour Court as the case may be.

In the result, this Special Civil Application fails and the same is dismissed. Interim relief, if any, granted by this court stands vacated. No order as to costs. Rule discharged.

(S.K.Keshote, J.)

*Pvv